IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1835 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PANCHAL MAYURKUMAR JAGDISH CHANDRA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 1835 of 2002

MR BM MANGUKIYA for Petitioner No. 1

MS BELA A PRAJAPATI for Petitioner No. 1

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 26/03/2002

ORAL JUDGEMENT

#. Rule. Mr.R.C.Kodekar, learned APP waives service of

Rule on behalf of respondent-State of Gujarat.

#. Three accused (1) Patel Vinubhai Muljibhai (2) Patel Harshadkumar Shantilal and (3) Panchal Mayurkumar Jagdishchandra (present applicant) studying in B.P.Ed. degree course in Maharashtra had filed joint Criminal Misc. Application No.125 of 2002 before the court of District Sessions Judge, Godhra at Panchmahal for releasing them on bail during the investigation of the case registered against them under FIR No.I 24 of 2002. In the bail application (Annexure-D) the accused No.1 stated that he was primary teacher and came to Lunavada at his relatives place and because of curfew he could not go back to Lunawada at his house. Accused No.2 was studying in 12th Standard. He had gone for tuition whose final examination of 12th Standard was going to start from 18.3.2001. Accused No.3 was a student of B.P.Ed. degree at Maharashtra whose examinations were started from 11.3.2002. Out of those 3 accused, accused No.2 and 3 prayed for bail before the learned Judge on the ground that they are students and they have to appear in the forthcoming examinations and if they are not released on bail their future will be ruined.

#. However, the learned Judge by his judgment and order dated 14.3.2002 rejected their joint bail application on the ground stated in it. While rejecting their bail application qua accused No.2-Patel Harshadkumar Shantilal he has observed that his Board examinations are going to start from 18.3.2002, therefore, if he asked for police protection then he may be given police protection and under police protection he may be allowed to attend the examinations.

#. Aggrieved of that order accused No.2-Patel Harshadkumar Shantilal, a student of 12th Standard filed Misc. Criminal Application No.1704 of 2002 before this court for releasing him on bail. On 16.3.2002 while making rule returnable in the matter on 10.4.2002 he was allowed to be released on temporary bail till then on certain terms and conditions considering the averments made in that application.

#. Today, present applicant-accused No.3-Panchal Mayurkumar Jagdishchandra has filed this bail application through Mr.Mangukiya on the ground that his B.P.Ed. examinations are going to start from 15th April, 2002, therefore, he may be released on bail.

#. It appears that in the first joint bail application i.e. Criminal Misc. Application No.125 of 2002 on

behalf of the applicant-accused it was pleaded that his examinations are going to start from 11.3.2002. Nothing more than that was stated in the application and pleaded before the learned Judge. Today, learned counsel Shri Mangukiya for the applicant-accused clarified that it was his practical examination, which was to be held from 11th to 15th March, 2002 and as he was not enlarged on bail by the learned Judge he could not appear in the practical examinations held in Maharashtra. However, he has urged that at least for written examinations, which are going to start from 15.4.2002 he may be enlarged on bail.

#. He submitted that he could have very well approached the learned Judge by way of second bail application, but he has thought it fit to approach this court because the learned Judge who rejected his earlier joint bail application might not interfere on the ground that he had earlier rejected the joint bail application. This apprehension of Mr.Mangukiya seems to be not well-founded. If new circumstances are pointed out, then the court is bound to take into consideration the same in fresh bail application. I am sure that if the present applicant-accused with all relevant material approaches the learned Judge by way of fresh bail application then in light of the above facts he will definitely consider the fresh bail application of the applicant-accused sympathetically and in accordance with law.

#. In view of the above, learned counsel Shri Mangukiya seeks permission to withdraw this petition, at this stage, with a liberty to approach the learned Judge once again by way of fresh bail petition, to which learned A.P.P. Shri Kodekar has no objection. Permission granted. Disposed of as withdrawn.

#. While parting I must state that learned Judge shall consider the fresh bail application in accordance with law and keeping in mind the future of the applicant-accused, who is a student of B.P.Ed. course. Rule discharged. D.S.permitted to Mr.Mangukiya.

(B.J.Shethna, J.)

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